



TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

PRAMIL S.R.L. (ESAPHARMA), }

Petitioner, }

v. }

MICHEL FARAH, }

Registrant. }

Cancellation No. 92032341

76/058,821

PETITIONER'S RESPONSE TO REGISTRANT'S MOTION FOR
SUMMARY JUDGMENT

Petitioner hereby responds to Registrant's Motion for Summary Judgment. This motion was served on counsel on June 16, 2007.

This proceeding is fraught with numerous delays and even an attempt by Registrant to take testimony long after its testimony period closed. As a result, Registrant's testimony was stricken by an Order of this Board.

The Petition was filed August 9, 2001, nearly six years ago. The Petitioner's testimony was filed October 16, 2004 and

its Brief on March 2, 2005, over two years ago. Defendant filed a Brief on May 2, 2005.

Accordingly the trial of this case has been over for more than two years and it is merely waiting for a Oral Hearing date to be scheduled.


The purpose of Summary Judgment is to provide a pretrial device for judicial economy and to avoid an unnecessary trial. See TBMP §528.01.

The time for filing a Motion for Summary Judgment is set forth in 37 CFR §2.127(e)(1), which states:

"...A Motion for summary judgment ..should be filed prior to the commencement of the first testimony period...and the Board, in its discretion, may deny as untimely any motion for summary judgment filed thereafter."

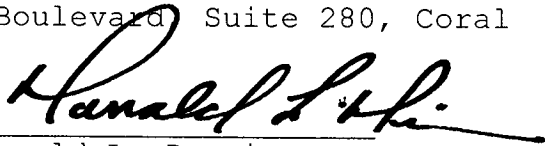
Accordingly, the Motion is clearly untimely and should be denied out of hand by the Board and the matter should proceed forthwith to oral hearing without further delay.

PRAMIL S.R.L. (ESAPHARMA)

By: 
Donald L. Dennison
Attorney for Petitioner
Dennison, Schultz & Macdonald
Suite 105
1727 King Street
Alexandria, VA 22314
(703) 837-9600

CERTIFICATE OF SERVICE

This is to certify that a copy of the above Response to Registrant's Motion for Summary Judgment was sent this 19th day of June, 2007, by first class mail with proper postage affixed to counsel for the Respondant, David M. Rogero, P.A. 2625 Ponce de Leon Boulevard Suite 280, Coral Gables, FL 33134.


Donald L. Dennison